

ADMINISTRATIVE PANEL DECISION

Ib Laursen ApS (Ib Laursen, Ribe ApS) v. yu ma
Case No. D2023-0956

1. The Parties

The Complainant is Ib Laursen ApS (Ib Laursen, Ribe ApS), Denmark, represented by Danmark Digitale Advokat Advokatanpartsselskab, Denmark.

The Respondent is yu ma, China.

2. The Domain Name and Registrar

The disputed domain name <iblaursens.com> (the “Disputed Domain Name”) is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 3, 2023. On March 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 5, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. In response to a request by the Center for an amendment, the Complainant filed an amended Complaint on March 24, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 19, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 20, 2023.

The Center appointed Nick J. Gardner as the sole panelist in this matter on April 24, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a Danish on-line retailer of furniture and related goods. It has traded since 1974. It sells its products via its website linked to the domain name <iblaursen.dk>.

The Disputed Domain Name was registered on September 1, 2022. It is linked to a website (the “Respondent’s Website”) which replicates the Complainant’s own website.

5. Parties’ Contentions

A. Complainant

The Complainant says it has unregistered trademark rights in the term “iblaursen”. It says that the Disputed Domain Name is almost identical to this trademark.

The Respondent has no rights or legitimate interests in the term “iblaursen” or “iblaursens”.

In consequence, the Complainant alleges that the Disputed Domain Name was registered and is being used in bad faith. The Complainant says the deceptive nature of the Respondent’s Website is clear evidence of bad faith. It infers the Respondent’s motive was financial gain.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

Preliminary Matters

The Panel notes that no communication has been received from the Respondent. However, given that notification of the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent’s default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The filed evidence as to the Complainant’s claimed unregistered rights in IBLAURSEN is relatively limited.

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) addresses this issue as follows:

“1.3 What does a complainant need to show to successfully assert unregistered or common law trademark rights?

To establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services.

Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys.

(Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant's goods and/or services.)

Specific evidence supporting assertions of acquired distinctiveness should be included in the complaint; conclusory allegations of unregistered or common law rights, even if undisputed in the particular UDRP case, would not normally suffice to show secondary meaning. In cases involving unregistered or common law marks that are comprised solely of descriptive terms which are not inherently distinctive, there is a greater onus on the complainant to present evidence of acquired distinctiveness/secondary meaning.”

In the present case, the evidence establishes that the Complainant has traded since 1974 and appears to have a substantial on-line business all conducted under the name IBLAURSEN. That would seem to support the Complainant's claim to unregistered trademark rights.

In addition, were there any doubt about this, it is relevant that the Respondent itself thought it worthwhile to use this term in the Disputed Domain Name and use it for a website that impersonated the Complainant. As the panel noted in *NEOVIA, Hi-Nutrients International Ltd. v. WhoisGuard Protected, WhoisGuard, Inc. / Deniz Hus*, WIPO Case No. [D2019-0600](#): “The Respondent did not provide arguments to the contrary; rather, in the Panel's view, the Respondent cannot dispute that, given it deliberately targeted the source identifier in an apparent fraud attempt. Such targeting of the Complainants is sufficient to establish limited trademark rights in the HI-NUTRIENTS trademark for the purposes of the Policy.” See *PEMF Supply, LLC v. Domain Administrator, See PrivacyGuardian.org / Gregory Lewis, American Healthcare Foundation*, WIPO Case No. [D2019-0235](#) (“[...] in light of the use of the PEMF SUPPLY mark that was submitted in this proceeding, the targeting of Complainant by Respondent is sufficient to establish Complainant has limited unregistered trademark rights in the PEMF SUPPLY mark for the purposes of the Policy”). See also *Greenspring Associates, Inc. v. Lisa Knowles, Victoria capital pty*, WIPO Case No. [D2019-0265](#): “To that extent, Complainant has in fact used the domain name <gspring.com> as a source identifier for its services. One person who cannot dispute that fact is Respondent, who (as is discussed below) deliberately targeted that source identifier (<gspring.com>) to attempt to perpetrate a fraud via confusion. The Domain Name differs from the GSPRING mark only to the extent that the Domain Name replaces the ‘i’ with an ‘l’. The visual similarity between the ‘i’ and the ‘l’ – especially when the font is small – is obvious”.

Accordingly, the Panel is satisfied on the evidence as filed that the Complainant has shown it has unregistered trademark rights for purposes of the Policy in IBLAURSEN as a source identifier for its services. The Panel will refer to the “IBLAURSEN trademark” in the remainder of this decision in relation to such rights.

The Panel finds the Disputed Domain Name is confusingly similar to the IBLAURSEN trademark.

It is well established that the Top-Level Domain (“TLD”), in this case “.com”, is viewed as a standard

registration requirement and as such is typically disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#) at section 1.11. The only other difference between the Disputed Domain Name and the IBLAURSEN trademark is the addition of the letter “s” - that manifestly does not prevent the Disputed Domain Name from being confusingly similar to the IBLAURSEN trademark.

Accordingly, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use IBLAURSEN trademark. The Complainant has prior rights in the IBLAURSEN trademark which precede the Respondent’s acquisition of the Disputed Domain Name. The Complainant has therefore established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the Disputed Domain Name. Given that the Disputed Domain Name has been used to host an identical website to that of the Complainant’s, the impersonating nature of the Disputed Domain Name cannot be said to vest rights or legitimate interests in the Respondent. Accordingly the Panel finds the Respondent has no rights or any legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

In the present circumstances, the fact that the Disputed Domain Name was linked to the Respondent’s Website which impersonated the Complainant’s own website leads the Panel to conclude the registration and use were in bad faith.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

In the present circumstances, the Panel agrees with the Complainant that the Respondent was seeking to achieve commercial gain by impersonating the Complainant. It was using the Disputed Domain Name as part of that impersonation. That amounts to registration and use in bad faith. The Panel also notes that the Respondent has not filed a Response and hence has not availed itself of the opportunity to present any case of good faith that it might have. The Panel infers that none exists.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <iblaursens.com> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: May 8, 2023